

**REMARKS**

The drawings, abstract and specification have been amended to address the issues identified by the Examiner.

Claim 26 has been amended to correct form. Claims 24-25 and 27-34 have been canceled without prejudice or disclaimer.

Now pending are claims 19 – 23 and 26. No new matter has been added.

Amendment or cancellation of any claim herein is not to be construed as acquiescence to any of the rejections/objections set forth in the instant Office Action, and was done solely to expedite prosecution of the application. Applicants make these amendments without prejudice to pursuing the original subject matter of this application in a later filed application claiming benefit of the instant application, including without prejudice to any determination of equivalents of the claimed subject matter.

Applicants further submit that entry of the present amendments is proper under 37 CFR 1.116 as the claim amendments simply cancel claims and place the remaining claims into better form for allowance. Entry and consideration of the amendments is therefore proper and is requested.

Applicants note with appreciation the Examiner's acknowledgment that claims 19-23 recite allowable subject matter.

**The Office Action - Objections**

In the Office Action, the Examiner has objected to the drawings. Accordingly, Applicants have renumbered the Figures and amended the specification to refer to the renumbered Figures and to insert the sequence identifiers for the sequences of Fig. 1. Renumbered Figures 1A – 1C and 2-7 are submitted herewith. Applicants submit that the renumbered Figures and amendments to the specification have overcome the objection and

request the Examiner's indication that the new drawings are acceptable in the next Office Action or Notice of Allowance.

The Examiner also objected to the Abstract. Applicants have accordingly amended the Abstract and contend that the revised Abstract is fully compliant with the applicable rules.

The Examiner also stated that the specification at page 83 discloses a sequence not identified with a sequence identifier. In response, the specification has been amended to include the appropriate sequence identifiers (SEQ ID Nos. 15-17). In addition, a new sequence listing has been prepared, including the sequences corresponding to SEQ ID Nos. 15-17. Paper and electronic copies of the new sequence listing are enclosed herewith.

The Examiner has also objected to claim 26 for improper antecedent usage. In response, claim 26 has been amended as suggested by the Examiner.

In view of the above amendments and remarks, withdrawal of the objections is proper and the same is requested.

Rejection under 35 USC §112, second paragraph

Claims 27, 28, and 33-34 stand rejected under 35 USC §112, second paragraph, for allegedly being indefinite. While Applicants do not agree with this rejection, in order to expedite prosecution, claims 27, 28, and 33-34 have been canceled without prejudice or disclaimer. The rejection has been obviated; reconsideration and withdrawal of the rejection is requested.

Rejection under 35 USC §112, first paragraph

Claims 27-34 stand rejected under 35 USC §112, first paragraph, for allegedly failing to meet the enablement and written description requirements. While Applicants do not agree with these rejections, in order to expedite prosecution, claims 27-34 have been canceled without prejudice or disclaimer. The rejection has been obviated; reconsideration and withdrawal of the rejection is requested.

Claim 26 stands rejected under 35 USC §112, first paragraph, for allegedly failing to meet the enablement requirement. This rejection is traversed.

Although the Examiner has conceded that "the specification asserts that a pharmaceutical composition comprising a polynucleotide encoding SEQ ID NO: 1 can be used for treatment of cancer (pg90)," Applicants respectfully point out that the present specification provides more support for the pharmaceutical composition as claimed in pending claim 26. The specification provides a description of conditions which can be treated using the claimed pharmaceutical compositions (see, e.g., the paragraph bridging pages 38-39), pharmaceutically acceptable carriers, vehicles, etc., for formulation of the claimed compositions (see, e.g., pages 39-41), exemplary dosage ranges (see, e.g., page 41, lines 9-21), and the like.

Moreover, as the Examiner has also acknowledged, the specification provides experimental evidence that DNA repair is increased with induction of expression of the inventive polynucleotide. Applicants note that the specification additionally provides experimental evidence that DNA repair is decreased when such expression was decreased and cell survival is also decreased after DNA damage when such expression was decreased (Example 5).

Applicants respectfully contend that the teachings of the present specification provide ample enablement for the pending claims, including claim 26. One of ordinary skill in the art would be able to make and use the claimed pharmaceutical compositions using no more than routine experimentation. Reconsideration and withdrawal of the rejections is proper and the same is requested.

### **CONCLUSION**

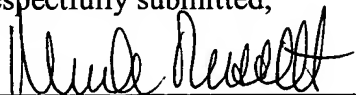
Applicants believe that this application is in condition for allowance. Early and favorable action is requested.

The undersigned requests any extensions of time necessary for response. Although it is not believed that any additional fees are needed to consider this submission, the Director is hereby authorized to charge our Deposit Account No. 04-1105 should any fee be deemed necessary.

If the Examiner considers that obstacles to allowance still exist, the undersigned invites a telephone call at the number indicated below.

Dated: July 27, 2006

Customer No. 21874

Respectfully submitted,  
By   
Mark D. Russett  
Registration No.: 41,281  
EDWARDS ANGELL PALMER & DODGE LLP  
P.O. Box 55874  
Boston, Massachusetts 02205  
(617) 439-4444  
Attorneys/Agents For Applicants